

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR
SUBCOMMITTEE ON ENERGY**

**Seventy-Sixth Session
April 11, 2011**

The Committee on Commerce and Labor Subcommittee on Energy was called to order by Chair Marilyn K. Kirkpatrick at 5:08 p.m. on Monday, April 11, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman Kelvin Atkinson
Assemblywoman Irene Bustamante Adams
Assemblyman Ed A. Goedhart
Assemblyman Pat Hickey

SUBCOMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Teresa Benitez-Thompson, Washoe County Assembly District No. 27
Assemblyman Randy Kirner, Washoe County Assembly District No. 26
Assemblyman David P. Bobzien, Washoe County Assembly District No. 24
Assemblyman Pete Goicoechea, Assembly District No. 35

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Committee Policy Analyst

Sara Partida, Committee Counsel

Karyn Werner, Committee Secretary

Sally Stoner, Committee Assistant

OTHERS PRESENT:

Jon Sasser, representing the Legal Aid Center of Southern Nevada, Washoe Legal Services, and the Washoe County Senior Law Project

Albert Weiss, Director, Weatherization Program, Help of Southern Nevada
Romaine Gilliland, Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services

Hilary Lopez, Chief of Federal Programs, Housing Division, Department of Business and Industry

Ariel P. Martinez, Weatherization Program Manager, Housing Division, Department of Business and Industry

Patrick Sanderson, representing the Nevada Alliance for Retired Americans

Kevin Schiller, Director, Department of Social Services, Washoe County

Jan Gilbert, representing the Progressive Leadership Alliance of Nevada

Judy Stokey, representing NV Energy

Debra Gallo, representing Southwest Gas

Tom Wilczek, Energy Program Manager, Office of Energy, Office of the Governor

Kyle Davis, representing the Nevada Conservation League

Gregg Tanner, Wildlife Biologist, Nevada Wilderness Project

Jeremy Drew, Director, Coalition for Nevada's Wildlife

Ali Chaney, representing the Board of Trustees, Lahontan Audubon Society

Luke Busby, representing Clean Energy Center, LLC

Alfredo Alonso, representing the Large-Scale Solar Association

Jesse Wadhams, representing Ormat Technologies

Randell S. Hynes, representing Nevada Solar Authority

Kathleen Conaboy, representing LS Power

Ken Mayer, Director, Department of Wildlife

Jason Geddes, Environmental Services Administrator, City of Reno

Rett Jesse, CEO and President, Nevada Controls, LLC, Carson City, Nevada

Paul McKenzie, representing the Building and Construction Trades Council of Northern Nevada

Chair Kirkpatrick:

[The roll was called, and a quorum was present.] We are going a little bit out of order today because we have somebody in southern Nevada who has been waiting for a long time, so we are going to start with Assembly Bill 457.

Assembly Bill 457: Revises provisions governing the universal energy charge.
(BDR 58-1106)

Jon Sasser, representing the Legal Aid Center of Southern Nevada, Washoe Legal Services, and the Washoe County Senior Law Project:

I am here today because I have been a member for some ten years of the Low-Income Home Energy Assistance Program (LIHEAP) Advisory Committee, which advises the Division of Welfare and Supportive Services (DWSS) on its energy assistance and weatherization programs. The bill arose as a Committee bill because we had first approached Madam Chair of the Subcommittee, and then Assemblywoman Teresa Benitez-Thompson and Majority Leader Marcus Conklin, about the possibility of getting a Committee bill introduction, and with the Chair's confirmation that happened.

We bring the bill before you because there is a terrific crisis in Nevada within these programs. The Energy Assistance Program (EAP), for those of you who are not familiar with it, was created at the state level some ten years ago. It creates what is called a universal energy charge (UEC). That charge is on every utility customer's bill, and the money it raises helps those who cannot pay their energy bills. The UEC is a very minimal charge; on a bill of \$50, it would be \$0.16, or roughly \$0.31 per \$100. I have provided you with prepared testimony ([Exhibit C](#)). After my remarks I have attached a copy of my NV Energy bill from a couple of months ago ([Exhibit D](#)). The electricity charge was \$45.60, and you will see that next to the bottom is the universal energy charge of \$0.15, which is the lowest charge of all those enumerated on the bill. That charge creates roughly \$12 million a year, which is paid to two DWSS programs. Seventy-five percent of that amount, or roughly \$9 million, per annum goes to the Welfare Division to help those who cannot afford their energy bills. Twenty-five percent goes to the Housing Division to help with the Weatherization Program. The program got off to a slow start, but for the last several years, it has been heating up to a high level due to the economic downturn. We spent almost \$30 million on these two programs in the last two years, primarily because of the extra federal money we received. Part of this money was received from the stimulus funds, and part of it was because of the greater demand for energy and, consequently, the price of energy going up.

Unfortunately, we are going to fall off a cliff at the end of this year in terms of federal funding. This funding will drop from the \$18 million the state received last year to \$9 million this year. A few weeks ago the Executive Branch revised its budget down to \$5 million, and my understanding is that it has been further reduced to \$3.8 million. So, going forward into next year we would only have \$3.8 million plus the \$9 million from the universal energy charge. We have approximately 17,000 to 19,000 Nevada households who qualify for this program that will not receive any assistance with their energy bills starting next year unless something is done.

The Welfare Division could deal with this a number of ways. They could take applications for a few months until they have exhausted their funding. Then they would have to stop taking applications, and all of those people who could not be helped would be left without assistance to pay for their air conditioning during the summer in Las Vegas, or with their heating bills in northern Nevada. This program is utilized all over the state. If you look at the third handout of my testimony ([Exhibit E](#)), it lists the number of eligible cases for fiscal year (FY) 2010 by zip code. You can look at the zip codes in your own district and find out how many of your constituents rely on this program to deal with their energy bills. You may anticipate that some 50 percent of those people who are receiving that assistance now will not be receiving it next year. Those people may be giving your office a call, wondering what happened and whether they will be able to do something about it.

In section 1, this bill proposes to double the current UEC. At the moment, the UEC is \$0.31 on \$100. That would go to \$0.62, and would be a fairly small increase for most Nevada residents. There are, of course, larger users. There is a provision in the original bill that capped the amount at \$25,000 per quarter or \$100,000 per year. The four largest users, as I understand it, are our two largest mines and our two largest gaming operations, which do have that limit. To be fair and equal to the residential consumers, we propose to double that cap from \$100,000 a year to \$200,000 a year.

If you will look at the last section of my handout ([Exhibit F](#)), you will see what will happen if this bill does not pass and what the options are. The Welfare Division has already scheduled a public hearing for May 24, and in that public hearing they are looking at what changes might be made to the program to keep it under budget for next year, and those changes are fairly dramatic ([Exhibit G](#)). As I said, one option is to limit the enrollment period to a few months of the year. At that point, all the money is gone. Another would be to lower the income criteria for those who qualify for this program. Right now, it is at 150 percent of the federal poverty level, which for a family of three is \$2,316 a month. This option would lower the income criteria to 110 percent of

the federal poverty level, which is \$1,679 for a family of three. So, all those above that amount up to the previous ceiling would no longer receive any help at all.

Another option is to prioritize service to certain households—those containing individuals over 60 years of age, people with disabilities, or children under six years of age. It is my understanding that the loss in federal funding is now so severe that we would not even have enough to cover these people. There is also an arrearage that is part of this program that helps people, once in a lifetime, by paying to have their utilities turned back on. In the past, we have paid people an average credit of about \$935 a year toward their utility bills, but because of this crisis, the Division has already lowered that amount to \$732 a year.

The Weatherization Program would be another beneficiary of this program and would receive 25 percent of the money allocated. I am not nearly as knowledgeable about that program, but very briefly I can tell you that this program helps people by making their homes more energy efficient and assists them in purchasing more energy efficient appliances. The average benefit for this program is about \$5,000 for changes to the home. That program has boomed in recent years due to the federal funding received from the American Recovery and Reinvestment Act of 2009 (ARRA). This funding also runs out in about a year, so the number of people served for the last several years will decrease dramatically if this bill, or something similar to it, is not passed.

Here with me today are representatives from the agencies that operate these programs, who are in the neutral position, but who would most likely have in-depth answers to questions.

Assemblyman Hickey:

Mr. Sasser, what was the pre-ARRA level of funding from the state for this program? Did we not anticipate that those were one-time monies? Where are we now compared to where we were before the ARRA monies attempted to fill this gap?

Jon Sasser:

In my handouts, there is a chart on the next to the last page that shows the caseloads growing from 25,000 to 32,000 ([Exhibit F](#)). The caseload is expected to be almost 36,000 in FY 2013. Mr. Romaine Gilliland, the head of the DWSS, is here, and I think he can take you back before that time period, but the caseload has been growing steadily. It certainly has jumped dramatically since the economy down-turned. To be clear, there were no ARRA funds

specifically intended for the Energy Assistance Program; the ARRA funds went to the Weatherization Program only. Congress did pass some higher than normal federal allocations to us over the past few years, but those are decreasing from \$18 million a year to less than \$4 million, and that creates the cliff. I am sure Mr. Gilliland can give you a much more in-depth answer.

Chair Kirkpatrick:

I have a couple of questions for Mr. Weiss and Mr. Gilliland. We have heard that we exceeded expectations with our Weatherization Assistance Program. We did over 6,735 homes with the ARRA monies that we received; that was part of the public hearing for the Interim Finance Committee (IFC) during the fall. I know people need assistance and we want to provide that for them, so there has got to be a way to do that. When representatives from the Department of Employment, Training and Rehabilitation (DETR) come up, maybe we can ask them about this. People in need should be the first ones getting their homes weatherized. One problem is, I do not see how we can prevent the same people from getting this assistance over and over again. We should be able to go in and weatherize their home for \$5,000 and make some huge changes to their assistance. I want to keep spreading the wealth because some of my middle-class constituents, who do not necessarily meet the criteria, are struggling to pay their energy bills. They have been unemployed for nearly a year and are stressed on how to make ends meet. Is this situation going to have a snowball effect? I support helping folks, but at the same time, residents are getting this assistance time and time again; we have to have a way to communicate so that others can have this done. I do not understand why this has not been the state's policy. Also, there is an administrative fee of, I think, some 17 percent, but there is nothing in the process that keeps the same home from getting it more than once a year, because renters can get it. This has nothing to do with the bill, but it does have to do with the process. We have to talk about that process, because we cannot have the same homes getting the subsidy. That and the administrative fee have always been my concern. There has got to be an easier mechanism for doing this.

Jon Sasser:

I will do my best to answer what I can, and then others can address some of these same points when they testify. When you say "administrative fees," again, the federal Energy Assistance Program, which covers both energy assistance and weatherization, has a cap at 10 percent. The universal energy charge (UEC) in the statute has a cap of 5 percent. My understanding is that the DWSS has spent less than 2 percent of the federal Energy Assistance money and less than 3 percent of the UEC funds on administration. Mr. Gilliland can, I think, go into this in more detail, but those are the figures that I have as part of the Advisory Committee. Part of this question involves

numbers. Again, we have 35,000 people who we expect will apply for energy assistance next year, which in the past consisted of an average benefit of \$700 per household per year, as opposed to a cost of \$5,000 to \$7,000 for getting a person's home weatherized. If we spent that money on weatherization only, 80 percent of Nevada residents who would otherwise receive energy assistance, will be left out; it is an either/or situation. Luckily, because of ARRA, we have been able to weatherize many more homes than we had in the past.

In terms of prioritization, if my understanding is correct, people from the Housing Division are overwhelmed by the numbers needing this assistance. There are 35,000 households in need of this assistance, and the Division is only able to weatherize a much smaller number. As I understand it, they receive a list of energy assistance recipients from the DWSS, and these households are the priority. Maybe the DWSS can go into more detail, but right now the problem is that the numbers are overwhelming. There is not enough money for both programs, and the two programs do fit together very well, as I think the gentleman from Help of Southern Nevada will tell you in more detail. They operate both programs.

Chair Kirkpatrick:

Are there any other questions? [There were none.] Then, let us go to southern Nevada.

Albert Weiss, Director, Weatherization Program, Help of Southern Nevada:

I would like to bring the Energy Assistance Program to your attention. We are an intake site for that program. In the past 12 months, we have completed 468 applications. More than 90 percent of these applicants were approved for subsidies; of that group 30 percent were seniors, 50 percent were disabled, and 20 percent were households with children under six years of age. Also, there is an underserved population of over 875 individuals who could not provide or who did not bring back the documentation necessary to complete the application process before the 30-day deadline.

The other thing I want to talk about is leveraging. As was said previously, we administer both the Energy Assistance Program as an intake site, and we also manage the Weatherization Program. Individuals who are 62 years of age and older can first apply for the Relief for Energy Assistance through the Community Help (REACH) program that provides funds of up to \$500, which is distributed fairly quickly to them, if their energy bills are in arrears. The Energy Assistance Program provides the funds for this once in a 12-month period, and that is how the Weatherization Program plays into this leveraging. This is what I want to concentrate on tonight. We can reduce the energy costs

so the subsidies a recipient receives from the Energy Assistance Program will last that much longer. To give you an idea of the scope of the Weatherization Program, over the last five years we have weatherized over 7,800 dwellings; of these, 4,800 have been single-family and mobile homes, and 3,260 have been apartments. That represents 6,462 tenants and over 16,000 people. This has resulted in energy savings of 25.6 million kilowatts of electricity and a savings of \$3.32 million on consumers' utility bills ([Exhibit H](#)). By increasing the minimum amount on the income requirements, the most needy will receive additional relief funds. That money does not currently go to just energy bills. I have submitted some letters that I have received from beneficiaries of these two programs ([Exhibit I](#)). The first example I would like to share with you concerns a family of three with a disabled son, living on \$604 a month and paying a monthly rent of \$500. They received a housing assistance program subsidy of \$300 and an Energy Assistance Program benefit of \$900. David is a caretaker and cannot take an outside job. He has also received weatherization funding that provided a new furnace and air conditioner for his family. The Lopez family is now able to stay in their home with a \$1,302 subsidy and have been referred to the Weatherization Program.

The previous speaker mentioned that the government receives monthly lists of approved applicants. While I was waiting this afternoon, I was able to obtain that list from the Nevada Housing Division, which consists of probably around 1,300 to 1,500 names. Many of these households are in subsidized and/or low-income housing. These types of apartment complexes present a different situation for saving energy on an individual basis. We look at these apartment complexes as a whole project, not on an individual basis, because there will be people in these apartment complexes who do not qualify as low-income. We instead apply a formula by which the apartment complex as a whole has to have a certain percentage of qualifying low-income households, and then we can do the whole complex, so that the program is able to help these folks as well. There is a family with a son who has been out of work since 2008, and he has exhausted his family's savings. They were able to have their home installed with insulation and solar screens that resulted in significant savings on their energy bills. One client is listed as a senior on a fixed income, and she had her air conditioner replaced, which she could not afford to do on her own. This client is living on social security, and was unable to pay her utility bills. She wrote to us to say that she could no longer afford her medication either. The reduction to her power bill, of course, will help ease her financial situation. These folks really need the help that the Energy Assistance Program gives them. Hopefully with the leveraging of these other programs, such as the Supplemental Nutrition Assistance Program (SNAP)—also known as the food stamp program—and the Weatherization Program, we can help stretch the

money, so that, as the affected funds are reduced, there will be less overall demand on the system.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.] Mr. Weiss, let me ask you this question: Is there legislation we can put forward that would help ensure that we are stretching those funds with the different avenues that we have? Let me elaborate a little bit. I had a constituent who needed a hot water heater. It took us about six months to install it. The hot water heater and the refrigerator alone used up all the money available for weatherization, so he is still asking for a subsidy. Is there legislation we can introduce to streamline the process so we can go in and fix the home all at once, to eliminate the need for a subsidy to pay for the energy bills in the future? I mean, granted, in the example I cited, it did lower his bills but they are still high. Can we do something legislatively to help ensure that we are getting the most bang for our buck?

Albert Weiss:

We take measures on a priority basis. Those measures that save the most money or kilowatts are installed first, and then we work down the list. It is true that sometimes folks do not really want some of the other measures; what they want is the new refrigerator, or solar screens, but that is not how we look at it. We try to give them what is going to save them the most energy and the most money. One of the most important things about the Energy Assistance Program is that when people are given a subsidy, there is less pressure for them to save energy when somebody else is paying for it. I know that Alaska requires Energy Assistance Program recipients to go to a class to help them learn how to save energy, although it is not necessarily going to cost them any money out of their pockets, because there are lots of low-cost or no-cost items. Education plays probably the most important part in this—that when we do weatherization, we also provide education to the person receiving it. There are many folks who get energy assistance but there is currently no follow-up to that assistance in educating the public on saving energy. I think that would be something, not for the Legislature to decide, but for us to integrate into our programs. We do the education already, but maybe other programs, or the Energy Assistance Program itself, can as well. When they get that subsidy, consumers can be told, “Here are some things you can do to reduce your power bill, and make those things last longer.”

Chair Kirkpatrick:

Are we able to ensure that the same homes are not consistently getting the assistance more than once? I heard you say earlier that some of the homes are

under different guidelines, so is it harder to go in and do an entire apartment complex? Is there a better way for us to address that?

Albert Weiss:

On the multifamily side, that is a difficult question, from the standpoint of a contractor going back and forth to the same place over and over again. At Help of Southern Nevada, we try to get the whole apartment complex qualified, and because there is an economy of scale, we have been able to get lower prices from our contractors without making trips back and forth. Again, apartment complexes are qualified on a building-by-building basis. A multifamily apartment complex of five or more apartments needs to have 66 percent of the building's apartment households qualified, so that even people who are over-income would still receive the same weatherization services as the other residents.

In two-to-four-family complexes at least 50 percent of the residents have to qualify and then we could do all the apartments in that complex. I am not sure if that answers your question.

Chair Kirkpatrick:

Yes, it does. I am trying to understand if there are other ways to ensure that we are fixing the long-term, as well as the short-term, problems.

Albert Weiss:

I agree that this is definitely a long-term problem. Again, those numbers I quoted and the average savings per household is year after year. It is not just the one time we go in and they save \$600 on their power bill for that year. It is year after year, because the energy saving measures were installed and do have long life expectancies.

Chair Kirkpatrick:

Are there any other questions from the Committee? [There were none.]
Thank you, Mr. Weiss.

**Romaine Gilliland, Administrator, Division of Welfare and Supportive Services,
Department of Health and Human Services:**

I would be happy to answer any questions that the Committee has on the proposed bill or the program as it exists today.

Chair Kirkpatrick:

Could you walk us through how the application process works from start to finish?

Romaine Gilliland:

We have two application locations, one in Carson City, and one in our Las Vegas district office on Flamingo Road. An applicant can come into the office and present an application which then can be reviewed by a caseworker. We have intake sites throughout the state, the southern Nevada site being one, where they, on our behalf, collect applications and the necessary documentation from the client. Having these intake sites located throughout the state helps to expedite the application process. Today, we have approximately 2,000 applications that we are currently evaluating. We evaluate about 1,000 applications per week, so as you can see, the average time to process an application is running between two and three weeks. That is much better than 18 to 24 months ago, when we had a significant backlog of applications, so we are very proud that we have been able to significantly reduce that time frame.

Chair Kirkpatrick:

Does anybody have any questions? I can tell that you have come a long way in the last year and a half from where we were previously.

Romaine Gilliland:

Thank you, Madam Chair. I appreciate that comment.

Chair Kirkpatrick:

We do not give out too many compliments, so I think when we can, we should.

Hilary Lopez, Chief of Federal Programs, Housing Division, Department of Business and Industry:

For the record, I also have Ariel Martinez, our Weatherization Program Manager, here with me, and we would be happy to answer any questions you may have on the program.

Chair Kirkpatrick:

Can you expand a little bit on my previous comment? Was I correct in saying that we exceeded our expectations and we have been doing a pretty good job?

Hilary Lopez:

Yes. We had originally intended to do about 1,950 households in the last fiscal year, and we have more than doubled that. We have received a commendation from the U.S. Department of Energy for doing so well, in terms of both exceeding our goals in the number of units weatherized, and expanding the funding for our ARRA Weatherization Program.

Chair Kirkpatrick:

And the DWSS received something like \$34 million in federal funding?

Hilary Lopez:

We received about \$37.1 million, and then we received an additional \$6.9 million for our Sustainable Energy Resources for Consumers (SERC) grant as a result of doing so well under our ARRA-funded Weatherization Program.

Chair Kirkpatrick:

Could you also explain how you are working together so that we can alleviate the short-term program to give them some long-term energy efficiency?

Hilary Lopez:

There is a referral process between the two agencies. We do direct mailers to those who are receiving energy assistance payments and we try to assist those clients for them. I believe that Ariel has some data in terms of the number of high energy users that we have been servicing.

Chair Kirkpatrick:

Can you also tell us how many are renters versus how many are homeowners? If you do not have that information now, perhaps you could get it to us.

**Ariel P. Martinez, Weatherization Program Manager, Housing Division,
Department of Business and Industry,:**

Unfortunately, I do not have those numbers with me, but I can provide you with them when I get back to the office. As mentioned previously, we have in FY 2010 weatherized about 1,200 homes, 43 percent of which are high energy users.

Chair Kirkpatrick:

Do you want to explain what high energy users are?

Hilary Lopez:

We do not have the actual definition with us, but we can get that to you. Typically a high energy user is someone who uses over a certain percentage of energy as calculated by the EAP program.

Assemblyman Goedhart:

My question is for the Director of the Weatherization Program: Of the 1,200 homes that you have weatherized, what was the average investment per house in terms of energy savings gained in retrofitting?

Ariel P. Martinez:

We put in an average of about \$4,000 per home.

Assemblyman Goedhart:

Did you also do a follow-up to see what had actually been accomplished in terms of energy savings? Were you able to get those figures as well?

Ariel P. Martinez:

Yes, we had an independent consultant calculate that the savings are about \$600 per home per year.

Assemblyman Goedhart:

Thank you.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

Patrick Sanderson, representing the Nevada Alliance for Retired Americans:

We think this is the best 30-cents-a-month "bang for the buck" that you are going to get anywhere in the State of Nevada. We know that it takes a two-thirds majority to get this bill passed, but if we can get more weatherization funding to help in the long term, it will be better for all Nevada residents. We think this is a terrific program that has done tremendous good over the long term, and we hope to keep it going in the future. On behalf of our retired members, we hope that you pass this bill.

Chair Kirkpatrick:

Does anybody have any other questions? [There was no one.] At this time we will go to those who are in support of this bill.

Assemblywoman Teresa Benitez-Thompson, Washoe County Assembly District No. 27:

I am not here today to talk necessarily as an elected official. I am here today as a social worker. I want to put on the record the quagmire that we as professionals are going to be experiencing is a crisis of tremendous proportions. I do trust that from this policy Subcommittee there will come some answers to this problem. There are potentially 17,000 people annually who apply to the Welfare Division for energy assistance. In my daily life, I work as

a social worker for a private hospice provider, and we often refer our patients and their families to these programs. A person in a hospice is defined as a person with a terminal illness. The medical team goes into their home, and in order to keep them out of the hospital or a nursing home, much medical equipment is often needed. They may require oxygen concentrators or feeding tubes, which run on a 24/7 basis. It is quite common for these patients to see their power bills rise significantly. For our seniors who are on fixed incomes, this can be particularly devastating. This program is the only tool we social workers have to assist families who are unable to pay their utility bills. This program is entirely separate from food banks, where there may be a couple of formal organizations, churches, or other nonprofit organizations where you can go. If you have a client in need, and you are diligent in your search and work hard enough, you can usually find a way to meet that client's specific requirements.

In terms of energy assistance, there is just this one program, and without it, I sincerely do not know where else I would be able to refer my patients. I have testimony from the National Association of Social Workers about the importance of this program. I also have testimony from a social worker who works in the Northeast Family Resource Center in Reno; both are on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit J](#)). This program is our only tool to address energy issues for the 17,000 people statewide who are in desperate need of this assistance. As a group, social workers do not know anything about the legislative side of things or how policies become law in Carson City. They do not understand that there is a division between the program funding for weatherization and the funding for low-income energy assistance. The only thing they know, and the only thing I knew before I came here, is that if I had a client who needed energy assistance, I made a referral to the Welfare Division, and that was my go-to spot. If we make those calls, and they tell us that the money is not there, I do not know where else we can turn for assistance. Thank you for listening to me.

Chair Kirkpatrick:

Thank you, Mrs. Benitez-Thompson. Are there any questions? [There were none.]

Kevin Schiller, Director, Department of Social Services, Washoe County:

In Washoe County, we have a Children's Services Division and an Adult Services Division that deal with vulnerable populations. On one side, we are dealing with abuse and neglect. On the other, we are dealing, as Mrs. Benitez-Thompson has indicated, with health care assistance to families, as well as providing services for the indigent. I cannot stress enough how

important this Energy Assistance Program is as a social services safety net. I would highlight that, at the current time, our operating budget in Washoe County, just in the children's and adult services divisions, is about \$72 million annually. That being said, with the reductions and cuts that we are anticipating in terms of programming, we are gearing up for a loss of \$27 million in services in Washoe County. The Energy Assistance Program, in terms of those 17,000 individuals, is critical for us to be able to provide the resources and services to assist families, rather than diverting them into the next level of services which could be, for example, the placement of a child in foster care, and then dealing with the same issues on the indigent side, trying to figure out how we get these vulnerable people the services they need. Over the last few years, there is a trend of more and more formerly middle class citizens needing basic social services and assistance. We are seeing more people losing their jobs and struggling with a variety of financial and other issues. As I have often said, "Budget creates opportunity." This is one of my key focuses: creating opportunities to become more efficient with the taxpayer's dollar. I really wanted to voice my support for A.B. 457.

Chair Kirkpatrick:

Thank you. Does anyone have any questions?

Assemblyman Goedhart:

I have a question on the raising of the universal energy charge mentioned in this bill. What would that do for a person who has an energy bill of \$200 a month? What does that work out to be in dollars and cents for that person, as a result of raising the universal energy charge from 3.3 to 6.6 mills?

Jon Sasser:

At the current rate, it is about \$0.31 per \$100, or \$0.62 for \$200, so that would go up to \$1.24 for a \$200 bill.

Jan Gilbert, representing the Progressive Leadership Alliance of Nevada:

I also am a member of the Low-Income Home Energy Assistance Program Advisory Committee. I would like to commend the DWSS for what it has accomplished over the last few years, because we used to have a lot of funding for these programs, but that is no longer the case. The funding is gone. We struggle with this every time we meet. What are we going to do for these seventeen thousand families and seniors? Ernie Nielsen could not be here, but I believe he sent you a letter that illustrates the situation that many of our seniors find themselves in when they are unable to pay their energy bills ([Exhibit K](#)). With this small amount of money per month collected from consumers' energy bills, we could make a huge difference in people's lives. When we passed the universal energy charge, no one even noticed it on his

bills. I have to tell people it is on their bills. It is so small they do not notice it. Please support this bill, so that we can help these families. What else can we do? Put them on a waiting list if they cannot cool or heat their homes? There is no waiting list. They will not be able to continue to live in their communities.

Chair Kirkpatrick:

I appreciate that, because I have constituents in my district who are making choices between being able to afford food or their energy bills in the summer, or their medicine and their energy bills in the winter.

Is there anyone else who would like to testify in support of this bill? [There was no one.] Is there anyone who is in opposition to this bill? [There was no one.] Is there anyone who is in the neutral position?

Judy Stokey, representing NV Energy:

We are neutral on this bill, mainly in response to any type of increase to utility bills in general. However, we are very sensitive to the needs of consumers in our state. We have a couple of other programs that we operate internally to help those customers and we understand that there is a need for these types of programs.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.]

Debra Gallo, representing Southwest Gas:

I am opting to say "Me too" to what Ms. Stokey said. For your information, we also do the Northern Nevada Low-Income Energy Conservation Program, through the Housing Division. You might have heard that they had to come and get approval for it with the Interim Finance Committee in order to accept our money, so we know that there is a need.

Assemblywoman Bustamante Adams:

Did you say that NV Energy and Southwest Gas both have additional programs to help provide assistance to people who may need it?

Debra Gallo:

We have a conservation and energy efficiency program for weatherization at Southwest Gas that we work on with the Nevada Division of Housing. That is not for bill assistance. It is a voluntary program that you may have seen mentioned on your gas bill. It is called the Energy Share Program. I believe it is administered by the Salvation Army, and people can make donations to it. It is not of the same magnitude as these other programs, but, yes, we do offer this service to our customers.

Chair Kirkpatrick:

They also have the Seniors Helping Seniors program. I refer my seniors to this program, because seniors particularly like being helped by other seniors.

Judy Stokey:

NV Energy also has an energy conservation program, and approximately \$11 million is in the budget now to help low-income folks. We also have a couple of other programs. In southern Nevada we have Project REACH, with an annual budget of \$800,000. In northern Nevada, we have the Securing America's Future Energy (S.A.F.E.) program, with an annual budget of about \$500,000. Both programs contribute to the Energy Assistance Program.

Chair Kirkpatrick:

Are there any other questions? [There were none.] Is there anybody else who would like to testify as neutral on this bill? [There was no one.] Mr. Sasser, do you have anything else you want to tell us?

Jon Sasser:

Our partners in the energy and gas industries have been terrific, and we work together with them on the Advisory Committee. But just to emphasize what Ms. Stokey said, they have a program that is budgeted for \$800,000 in the south and \$500,000 in the north, for a total of \$1.3 million, as opposed to the \$30 million program we operated statewide last year for the Energy Assistance Program. So, although they are terrific partners, they are a tiny drop in the bucket, in terms of being able to address the needs on their own. Finally, we ask you to consider that doubling the mill assessment will hardly be felt by Nevada households who would have to pay the extra 30 cents or so. On the other hand, if you do not pass this bill, it will be dramatically felt by the approximately 19,000 households in Nevada who will not have any help with their energy bills. So, we ask you to move this bill forward.

Chair Kirkpatrick:

Thank you, Mr. Sasser. Does anybody else have any questions? [There were none.] With that, we are going to close the hearing on Assembly Bill 457 and open the hearing on Assembly Bill 202.

Assembly Bill 202: Establishes the Fund for Economic Development to provide assistance in paying for electricity costs incurred by certain new manufacturing businesses in this State. (BDR 58-652)

Assemblyman Randy Kirner, Washoe County Assembly District No. 26:

In our earlier presentation several weeks ago, we presented a conceptual amendment to Assembly Bill 202, and Chair Atkinson asked for a hard copy.

This is now available on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit L](#)) and hopefully has been passed out to you. Let me walk you through it, and then you can ask questions. You will notice that we have rewritten about half the bill. The bill is intended to provide economic development with an extra tool to help bring manufacturing businesses to Nevada. The changes we have made concern the way in which we intend to finance this. The original bill had been supported by a mill rate, and I never did feel comfortable with that. Working with other members of the Legislature, we have decided to tie this in to energy efficiency. This bill represents the outcome of that discussion.

If you go to section 15 on page 2, the green text contains the new additions; line 20 indicates the requirements for manufacturing, and beginning in subsection 1(a), it sets out the different requirements manufacturers must meet, which are indicated by the achievement of different levels, such as silver, gold, et cetera, that is described in the Green Building Rating System, which was established by the Leadership in Energy and Environmental Design (LEED) program.

Moving forward to page 4, line 12 in subsection 1(b)(3), we have inserted, again based on discussions I have had with my peers, that the average hourly wage paid by the facility must equal at least 100 percent of the average statewide hourly wage, or the average countywide hourly wage. Moving to line 22, subsection 1(c)(1), it reads, "Private activity bonds must not be considered funding provided by a government entity." There are actually several requirements they must apply for, and if there is a change in scope, they have to review it. Once it is approved, it has to be done within 48 months, so there are some technical items. Moving to page 5, there are some checks to make sure that the project meets the retrofitting requirements. Beginning on page 5, line 27, you notice that the rebate we are talking about is only in the first year, and there are different levels based upon whether you are at the silver, gold, or platinum level, and those are 25, 30, and 35 percent respectively. On line 42, this rebate cannot be used in combination with any other rebate or exemption. We are trying to set up some restrictions on this abatement.

Going to page 6, you see a series of regulatory provisions and a series of definitions. Next, I will take you to page 9, line 32, where it is stated that, obviously, this cannot be used in a building that has already been retrofitted. In other words, it has to be a new project or new retrofit. At the end of the day, what this bill is trying to do is to provide an extra tool for our economic development folks to attract what they call fundamental manufacturing industries to diversify our economy. At the same time, I think this bill will help

provide short-term jobs for construction and longer-term jobs for manufacturing positions throughout the state. So, it is a jobs bill as well as an economic development bill. I am ready to answer any questions that you may have.

Chair Kirkpatrick:

Mr. Kirner, just to be clear on this, currently there is an existing building program, as Stacey Crowley, our Energy Director, has stated, and this would take the place of that, and establish requirements for our manufacturers to meet. And currently the abatement paid to manufacturers pays for itself. This bill limits this abatement to just one year and gives the manufacturers savings on their energy costs for the long term, correct?

Assemblyman Kirner:

That is correct.

Chair Kirkpatrick:

Also, this bill requires that these manufacturing industries have to be giving back to our state, as well as bringing in jobs that employ folks at a certain wage, correct?

Assemblyman Kirner:

The minimum requirement is 25 percent. Obviously we would be happier if it were 100 percent or more. Yes, they have to pay workers the going rate, as far as wages are concerned.

Chair Kirkpatrick:

The other thing—and this is one of the biggest concerns of some manufacturing facilities up north—is the high cost of energy. So, this bill will help pay for the cost of retrofitting of their facilities in the short term, so that in the long term their energy costs will be much less expensive?

Assemblyman Kirner:

Taken from the manufacturer's perspective, that is it, exactly. Taken from the county's perspective, it is getting a building retrofitted that otherwise would have been empty and would not be bringing in any revenue in property taxes. This bill gives manufacturing industries a partial abatement in the first year, and thereafter, it is the regular property tax at the improved level.

Chair Kirkpatrick:

I know that currently Mrs. Crowley is attending an energy transmission conference, but she says she does have staff available and able to answer any questions. I think they are using the newest version of an existing building at this point.

Tom Wilczek, Energy Program Manager, Office of Energy, Office of the Governor:

I am here on behalf of Ms. Stacey Crowley, Director of the Nevada State Office of Energy. It is my understanding that we have not yet adopted the newest standards. We are using, I would say, the standard prior to that.

Chair Kirkpatrick:

But, I believe that in April you probably will adopt that newest standard, correct?

Tom Wilczek:

It is our understanding that we are moving ahead with that.

Chair Kirkpatrick:

And the reason for that is there is a two-year waiting time before LEED changes its standard, but by the time this bill passes, we hope they will be using the most updated version.

Tom Wilczek:

That is correct; it is a very dynamic situation.

Chair Kirkpatrick:

Perfect. Thank you. Does anybody have any questions? Mr. Kirner, do you have anybody who wants to testify in support?

Assemblyman Kirner:

I do not.

Chair Kirkpatrick:

Is there anybody here who would like to testify in support of A.B. 202? Is there anybody who is in opposition to A.B. 202? Is there anybody who is neutral on A.B. 202? [There was no one.] Mr. Kirner, there were some Committee members who wanted to sign on to your new bill. However, I am not clear what the process is, so we can include it as part of this amendment. Do you have a problem with some of the Committee members, if I get you a list, signing on to your bill?

Assemblyman Kirner:

I have no problem with that; the more, the merrier.

Chair Kirkpatrick:

I will let the Chair of the Assembly Committee on Commerce and Labor know that he can sign on, and I will get a list of the folks who want to sign on to this bill as amended.

Assemblyman Kirner:

I will be delighted to have the Chair of the Assembly Committee on Commerce and Labor sign on.

Chair Kirkpatrick:

We will go ahead and close the hearing on A.B. 202. We will now open the hearing on Assembly Bill 307.

Assembly Bill 307: Requires the monitoring of the effects of certain energy development projects on wildlife. (BDR 45-872)

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24:

We have had some discussion this session about the issue of sage grouse and its potential to severely impact all the work we are doing here at the Legislature to create jobs in this state, especially energy jobs. This bird, as you may know, is a possible candidate for the endangered species list. If such a federal action were to occur, it would seriously impact many economic activities, which would come to a grinding halt all across the state. You will hear some testimony on what this entails, but I believe it is time for the State of Nevada to become proactive in the planning of energy development projects. We need to ensure that the planning processes are informed with the best possible science, and in large part, that responsibility falls currently on the Nevada Department of Wildlife (NDOW). Typically, what happens with our state public lands is that when an energy developer approaches the federal agency for a permit to enter into the National Environmental Policy Act (NEPA), the environmental impact statement (EIS) processes that study. Energy developers typically ask for data on sensitive species and their habitats from the Nevada Department of Wildlife.

For those of you who are familiar with its budget, the Department of Wildlife is almost exclusively supported by sportsmen's dollars, through hunting and fishing licenses that are sold in the state as well as from federal sources, such as excise taxes on the sale of firearms, ammunition, and similar equipment. So that means that very little General Fund money goes to support NDOW, and the burden on the Department, as you will hear from its spokesperson, is tremendous. It is something that they are struggling to keep up with. I have a concern that, if they were to fall behind, we would hasten the listing process again, resulting in those negative consequences that we have been talking about.

In response to this problem, I am proposing to create an energy planning function in the Department of Wildlife, supported by a fund to make sure that the Department's work is properly supported with the financial resources that it needs and given the attention and focus it deserves. Also, it will help build connections between the Nevada Office of Energy and NDOW. You should have on the Nevada Electronic Legislative Information System (NELIS), the proposed Amendment 5981 for Assembly Bill 307 ([Exhibit M](#)). [The amendment was emailed to Committee members and subsequently placed on NELIS.]

As you can see, the bill starts to pick up in section 3, where the first reference to the Energy Planning and Conservation Fund is made. Originally, it was set up as the Energy Planning and Mitigation Fund. This amendment changes the language to "Conservation" to make it clear that this is not supposed to be a direct mitigation option available to developers, but that it is a conservation fund; that language is carried throughout the bill. In section 5, we lay out some specific definitions for energy development projects, and the amendment makes clear that this is meant to refer to projects specifically concerned with the generation, transmission, and development of energy located on public or private lands. There are some additional definitions, including the phrase "without limitation." I want to draw attention to section 5, subsection 2, where there is a specific reference to—and I believe this is brought over from the Utility and Environmental Protection Act (UEPA)—the "nameplate capacity of not more than 70 megawatts." It is our understanding—and this might be a good one for the Legal Division to weigh in on—that we are not capping this at 70 megawatts. Certainly, larger utility-scale projects are part of this Act. I believe that Legal felt it was necessary to draft this amendment with this language in order to reference an existing statute.

Chair Kirkpatrick:

I believe that was in last session's Senate Bill No. 395 of the 75th Session where we did clarify that, but we can have Legal chime in later.

Assemblyman Bobzien:

In section 6, we are making clear what is not applicable here, such as a facility or energy system smaller than 400 kilowatts, net metering systems attached to school properties or private residential properties, or a project that does not disturb any soil. So if there is a project going on in an existing structure, smaller projects are not subject to this Act.

Due to a side issue that came up, I think, because of the changes that we made to UEPA last time, we begin section 7 with an observation that we could also take advantage of in this bill, that it is very difficult to know which energy

development projects are in the hopper at any given time. To start with, for the project to come under consideration, a notice is filed. We would like the Office of Energy to keep track of all these projects, so that at any time we can see what is happening all across the state. This notice would be provided to the Office of Energy, on a form created by that Office. This is not meant to be a huge paperwork exercise, but to enable the Office to keep, on file, basic information about the various projects, including the location and description of each project, a description of each project's boundaries, the estimated requirements for the infrastructure of the project, and the estimated output of energy from these energy development projects. These are all key pieces of information that the Office of Energy would keep on file on a database. Section 7, subsection 2(b) reads: Filed with the Office concurrently with any application for permits, leases, or easements for rights-of-way for the energy development project filed with: (1) The Federal Government, pursuant to any federal law or regulation; or (2) Any state or local governmental entity. What we are essentially trying to capture here is any project on private or public land. You will hear additional testimony from industry as to how best to implement this. The key here is that we have spent much time trying to figure out when exactly the filing should be required. The hope is that the developer would file at the beginning of the federal process. The reason for this is because that is when NDOW needs to recall the data calls and responds to other related requests for information. So, section 7, subsection 2(c), reads: "Accompanied by a filing fee of not more than \$500, as specified in regulations adopted by the Office." This refers to the first part of the fee, which is for administrative purposes to keep track of this information by the Office of Energy.

In subsection 3, "In addition to the fee required by subsection 2, the Office of Energy shall, in consultation with the Department of Wildlife, establish and collect a fee for each energy development project of at least \$35,000 but not more than \$100,000, pursuant to a schedule of fees set forth in regulations adopted by the Office based on the potential for impact on wildlife and its habitat and the acreage of the energy development project including, without limitation, any roads used for access to the energy development project, and the area of land disturbed by the energy development project."

So, the setup is for the Office of Energy to come up with this fee schedule that is sensitive to all the dynamics of a potential project, including potential impacts on wildlife and habitat. The scenarios that come to mind here are smaller focused geothermal project sites that might have one set of impacts for wildlife habitat as compared to much larger-scale projects, such as energy transmission projects, for instance, natural gas pipelines that stretch across the entire width

of northern Nevada. Projects both large and small need to be accounted for here, and so hopefully the fee schedule that is arrived at, based on this language, would take that up.

Chair Kirkpatrick:

Currently many projects get our tax abatements. I see you deal with transmission projects. Some projects get the rights-of-way and then go to our local governments. What is the mechanism to know exactly what they are required to apply for?

Assemblyman Bobzien:

If you fail to trigger the federal requirement to file before you file with local or state government, you would have to file here.

Chair Kirkpatrick:

I see where this works for right-of-ways or for land leases with the Bureau of Land Management (BLM), but when it comes to private land, are we going to count on local government collecting the fees and sending them to the Office of Energy? I do not want to bog down the process because it is hard enough trying to get through that process now. How would all these private developers know how to get through the process so as not to violate the law, and how does the state know that the fees are being collected?

Assemblyman Bobzien:

I think if somebody has to go through the county government for a special use permit of some sort, at the same time, just before he files for that, he would file with the state Office of Energy for this.

Chair Kirkpatrick:

Here is my concern. What I do not want is for the developers to get stuck with an additional fee that they are not aware of. I do not have a problem with the concept; I just need to figure out how the mechanism would work, because it scares me to let local government have the ability to help somebody out or not.

Assemblyman Bobzien:

Again, I think in this situation there is no onus on local government whatsoever. The onus is on the developer to be aware of the facts, and if he files, he is also filing with the Office of Energy. In that case, where there is exclusively a private land project, he is only required to obtain a local permit.

Chair Kirkpatrick:

I do not disagree with that, but we have people from other countries coming to our state, and I do not want local government to put a fiscal note on this. I just

want to make sure that we have a clear understanding of the mechanisms, so that we do not have somebody come from another part of the country, and he is not aware of how it works. Then he gets into trouble because he did not pay the required fees. Maybe Mrs. Crowley is going to put information on the Office of Energy website.

Assemblyman Bobzien:

I think that is a good point. I think there is some education that will be required on the part of the Office of Energy. I do think, though, that the vast majority of projects that will come into play with this law are going to be those that are on federal lands.

Assemblyman Goedhart:

Looking at the original bill on page 4, line 38, it almost seems to me that it does not appear to apply to projects over 70 megawatts. That is a concern I have with the language.

Assemblyman Bobzien:

I am reiterating the request to Legal to try to chime in here about exactly why it was drafted that way. I know it has been presented to me previously that it was necessary to reference the existing statute, but that it is not intended to limit projects to under 70 megawatts.

Assemblyman Goedhart:

Over the last four or five years, while keeping track of the impacts on the environment, on wildlife, and on threatened or endangered species in Nevada, we have not, to my recollection, built a Conservation Stewardship Program (CSP) or windmill project in the state during that period. We have had a couple of small-scale geothermal projects, so it almost seems to be a solution looking for a problem in the sense that I have not seen the scale of projects going forward that I think necessitates this action. This provides another hoop. You had referenced the fact that if they needed to come to a county government agency for a conditional use permit, this necessarily should trigger the pertinent additional layer of responsibility. But I know that in Nye County, for example, there is no special use permit required for any type of project, because in counties where 98.5 percent of the land is under federal government control, they already have to go through an environmental impact statement and an UEPA process and all the rest. They already have to go through a plethora of regulations, processes, biological studies, assessments, animals, and all the rest. I would not mind if you had a registry or said every project had to register with the Office of Energy, but this almost seems to take it to an extra level of redundancy.

Assemblyman Bobzien:

I believe there are a couple of issues here. The first one, which we will hear from the Department of Wildlife, concerns the volume of energy project applications it has dealt with in recent years. I think they will be able to address your concerns about this issue. The purpose of this legislation is not to create an additional regulatory layer. No new permits will be required. I want to make that point clear and put it on the record. This is about cost recovery. It will impact the Department of Wildlife in that it will have to respond to those federal processes that you have described. These are not handled exclusively by the federal government. Even in a federal land state, the state has jurisdiction to maintain and manage the wildlife resources except for those listed under the Endangered Species Act. This bill seeks to ensure that we are doing that and, at the same time, interfacing correctly with the federal processes so that we do not lose jurisdiction over state wildlife.

Assemblyman Goedhart:

The way I look at it, though, is that for every 20 applications we have, we will be lucky to get one project. In fact, we have not had a single project CSP or windmill generation project in Nevada outside of Clark County. For every 20 or 30 projects we have been hearing about for so many years now, such as the North Slope Gold Rush project, I am hoping we can get at least one project up and running. So I do not want to put up more hoops and hurdles, people to talk to, fees, and all the rest. I will reiterate: I think that the National Environmental Policy Act process is extremely comprehensive, and if NDOW feels it has to weigh in to get money for it, it also has the obligation to pay for a certified desert wildlife biologist and spend money doing its own research and field surveys. They are preeminently qualified folks, and it just seems to me that this is one more bite out of the apple, one more hoop or hurdle for these renewable energy folks to have to contend with.

Assemblyman Bobzien:

I appreciate that concern. I think it is important to note that the BLM has cost recovery set up for EIS processes. You will hear testimony about the appropriate time to levy the fee. It may, in fact, be further into the process when the developer has actually sat down with the BLM and said, "Okay, we get it. We are not going to have as big a project as we originally planned, but here is the project that needs to be studied." They then set up a cost recovery account with the BLM. Oftentimes, if developers are hiring outside consultants and biologists to help with their application process, there again, they will get their wildlife data from the Department of Wildlife. So, with all the structures that are set up to do cost recovery for the federal government, the state gets left out in the cold. There is no money to make sure that the state has a proper seat at the table when it comes to those processes.

Chair Kirkpatrick:

Legal is going to chime in on that issue in section 5.

Sara Partida, Committee Counsel:

The definition for "energy development project" that is included in section 5 of the bill references back to the definition of "utility facility" included in subsection 2, where a part of that is duplicated from the definition of utility facility that is already included in Chapter 704 of the *Nevada Revised Statutes* (NRS). However, because the definition in NRS Chapter 704 includes things other than these types of electric generating plants, the drafter had to be a little bit more specific, so as not to be too over-inclusive in that definition.

Assemblyman Goedhart:

So even though it specifically says "projects not more than 70 megawatts," you are saying that because it relates back to another definition, the NRS would apply this, in effect, to all projects?

Sara Partida:

Correct. The definition is found in NRS 704.860, and that 70 megawatts is already in that existing definition. That existing definition of a utility facility not only includes these ones that are specifically duplicated here, but it also includes sewer transmission and treatment facilities, gas transmission lines, and other types of things that were not meant to be included in this bill. So, what the drafter has done is taken one of the five things included in the utility facility definition and put it into this bill.

Chair Kirkpatrick:

Mr. Bobzien, as I was looking through the rest of the bill, in section 11, subsection 7, it looks like it does give the Office of Energy the ability to draft regulations to ensure that there is a process to go through. I am a little more comfortable with that, but I have to agree with Mr. Goedhart that one of the things we ran into with LEED was that everybody had a whole different process, so we finally put in regulations so that everyone knew the rules. Another example of this is currently there are specific rules with our abatement process, so that everybody knows what they have to do. To Mr. Goedhart's point, we have about 25 projects that are coming to our state and have submitted applications or pre-applications. So, there is some interest. These people have 18 months to go through the process, but what I do not see in here and what we probably should address is the situation of cities like Boulder City and Mesquite that have governmental entities that own their land. We want to make sure that they at least register with our Office of Energy, because I think we can leverage lots of grants with these funds. I will give an example. When the Office of Energy submitted one piece of information to the Department of

Energy, and the Department of Wildlife submitted another piece of information, and they were not consistent, it took us nearly 35 days to recover a grant, which was almost lost. I agree that the two agencies have to work together and that the Office of Energy would have to put those regulations in place. I want to make sure that we put on the record, for Mrs. Crowley, that we have to include those other folks, because otherwise we may not necessarily see them or they will not come before our state. I think that the key is to have the data that we need to apply for additional grants, and to have the communication and a consistent process so that people who are coming to our state are aware of everything they have to do up front.

Assemblyman Bobzien:

I thought it was important to put the Office of Energy in the "wheelhouse" for this. Ultimately the Department of Wildlife has to do the science and the conservation projects, but it should begin with the Office of Energy so that we do not have any confusion.

Chair Kirkpatrick:

I am all about mechanisms because if it does not work, we will hear about it all interim.

Assemblyman Bobzien:

I absolutely appreciate that. Continuing with the presentation, section 8 states that the Office of Energy shall maintain the information database, which I think is going to be incredibly useful for a variety of reasons. A report containing the information has to be compiled and then given to the Legislative Commission and the Legislative Counsel Bureau. Section 9 covers the creation of the Energy Planning and Conservation Fund and explains what happens when the money comes in to the Director of the Office of Energy. It states: "The Director of the Office of Energy may apply for and accept any gift, donation, bequest, grant or other source of money . . . ," making it clear that we can certainly find other sources of revenue. The Fund would accumulate because there is incredible variability in the number of applications coming in from year to year. The stability of this funding is essential to provide the financial support for the Department of Wildlife's activities. Subsection 4 of section 9 states that,

"The Director of the Office of Energy shall administer the Fund. The money in the Fund must be provided to the Department of Wildlife and used: (a) To conduct surveys of wildlife; (b) To map locations of wildlife and wildlife habitat in this State; (c) To pay for conservation projects for wildlife and its habitat; (d) To provide staff to assist the Director of the Department of Wildlife in carrying out the provisions

of paragraphs (a), (b) and (c) . . . in cooperation with the Department of Conservation and Natural Resources."

In subsections 4(a) and 4(b) it covers surveys and applications, and that is your cost recovery. That is what NDOW does currently in processing the data calls it receives, which is financed from sportsmen's dollars. The hope here is that we are not just responding to projects that need consideration. The hope and the benefit to industry is that by beefing up this information it can then be disseminated to the public and the development community to help industry make better siting decisions from the start. This data will be made available on website, using geographic information system data layers, and whatever other reports and maps that can be made available, so that developers can consult these resources from the start and say, "Maybe you have a problem over here with this particular route. Maybe we should go this way instead," before they even begin the process, where they might run into problems, in their environmental impact statement. The conservation projects, I think, are a big piece of this. We have to demonstrate to the federal government that we are doing our part on sage grouse, in particular, and wildlife habitat, in general. The impacts to habitat and wildlife species are numerous in the state, so if we can get ahead of receding vegetation projects and those types of things, we can begin to tackle this problem.

Pertaining also to section 9, subsection 4, obviously, the staffing and the resource support is very real. In subsection 5, the coordination is important because NDOW is not the only agency that needs to work on this. The Division of Conservation and Natural Resources has offices that also have tools at its disposal to help in this effort, such as the Division of Forestry, which has seed banks that can be utilized for revegetation projects. Again, we want to make sure that the coordination is spelled out and prescribed in this Act. So, you will see in subsection 5, "The Director of the Office of Energy shall adopt regulations" to oversee these concerns. "The criteria for projects for which the Department of Wildlife may use money"—I think that is important. We want to have that kind of accountability. Then, of course, "Procedures to distribute money from the Fund." We have had a lot of back and forth between the Director of the Office of Energy and the NDOW Director concerning the specifications of this Act and the proper balance of responsibilities between the two agencies. So, you may hear other opinions and ideas on that issue, and we are willing to work with others on this.

The end of section 11, subsection 7 has to do with the regulations to be carried out by this Act. Also we have a number of folks who can provide additional testimony on the issues involved when we talk about energy development and wildlife planning.

LS Power has submitted an amendment ([Exhibit N](#)) to this bill. They have been looking at some alternative ideas about when the fee should be collected and the characteristics of the projects that should be considered by the Office of Energy when they come up with the fee schedule. I will get that to you as well.

Kyle Davis, representing the Nevada Conservation League:

Today, I also have with me representatives from some of the environmental groups that make up our conservation priorities for Nevada, including Greg Tanner from the Nevada Wilderness Project, Jeremy Drew from the Coalition for Nevada's Wildlife, and Ali Chaney from the Lahontan Audubon Society.

This bill, which enables Nevada to properly and responsibly develop both conventional and renewable energy projects, any time and anywhere in our state, is the top priority for the conservation community for this session. We think this is a very important bill that will allow us to be proactive in working with energy developers from the front end so that we can get better-sited projects that properly account for the wildlife impacts and will enable all parties to work together on the same page from start to finish.

Before we get to the others' testimony, I would like to speak to some of the issues that have come up so far in this hearing. The goal of this legislation is to be proactive and to work with developers to get a better, cleaner environmental impact statement. This will benefit industry and allow us to work from the front end on this. Of course, the secondary issue, and this is also very important, is to keep species off the endangered species list. Obviously, if we see something like the listing of the sage grouse, that will cause the renewable energy development projects in our state to grind to a halt. We cannot afford to see that happen, not only because of the environmental benefits we will receive from renewable energy projects but also because of the new jobs that will help spur further economic development in Nevada. So that is the goal here, to try to prevent the sage grouse and other species being listed as endangered species, and we think we can do that by taking money that is currently being spent on habitat projects and giving it directly to the Nevada Department of Wildlife. We can create the opportunity for more federal funding by creating this revenue stream that the Department of Wildlife can access.

It is very important to have the appropriate cost recovery. The State of Nevada has generally done a pretty good job of making sure that the people who are receiving state services are actually helping to pay for these services, and that is our goal here, too.

Regarding whether or not we have energy projects being built now, there are the Ruby Pipeline and the Southwest Intertie Project South (SWIP) line that will link northern and southern Nevada. These energy projects will certainly impact wildlife and wildlife habitats throughout the state. But, even if we talk about the 20 or 30 projects that are on the drawing board, those projects are using state resources when their environmental impact statements are coming to the state and asking for our wildlife data. That is where we are trying to offset the cost, while at the same time being proactive and working with companies.

Chair Kirkpatrick:

Does anyone have any questions for Mr. Davis? [There were none.]

Gregg Tanner, Wildlife Biologist, Nevada Wilderness Project:

I am a biologist with the Nevada Wilderness Project. I wanted to provide a brief background on this bill with respect to the current model that exists in the NRS, which is a product of the cooperation that ensued during the 1980s between the Nevada Department of Wildlife and the Nevada mining industry. In a former life, I was employed as a biologist at the Nevada Department of Wildlife. I retired after a 32-year career. But, during my employment with the state, I was responsible for dealing with the mining industry and with a plethora of new permits and applications for new mining activity that was taking place in Nevada in the early 1980s. This activity coincided with the increased price in gold and the development of new technology that enabled microscopic gold deposits to be extracted from ore in a profitable manner.

At that time, in the early 1980s, there were a number of new mines coming on line that included the development of new cyanide leach ponds that were used as part of the processing of gold and silver ore. Within a relatively short period of time these mines came on line, resulting almost immediately in higher mortality rates for migratory birds. Apparently, the attraction that these water surfaces provided to migratory birds resulted in the birds landing on the ponds, and because the solution contained lethal substances like cyanide, we had significant migratory bird mortality rates. For the most part, migratory birds are handled under the authority of the U.S. Fish and Wildlife Service. So, the mining industry, in consultation with the U.S. Fish and Wildlife Service, attempted to resolve these issues. In response, the federal government simply threatened to close down these mining operations until they could fix or cure the unusually high death rates of migratory birds. The State of Nevada was involved in this as well, and we worked closely with the mining industry to try to alleviate the problem. The difference was, in feds versus state, that the state did not want to apply a heavy hand, from a regulatory perspective, to one of its major industries. So, a cooperative working relationship developed as state biologists worked with members of the mining industry in an attempt to

resolve this very significant problem. This effort resulted in a variety of techniques being used cooperatively. Examples included reducing the surface acreage of the cyanide leach ponds. There seemed to be a direct correlation in the number of migratory birds that were not attracted to these impoundments and did not expire as a result. We also experimented with suspending fishing lines overhead to prevent access to the ponds by the birds. One particularly ingenious method involved using Styrofoam balls that floated on the surface of these leach ponds, which took away the glare or sheen from the water's surface, and that proved to be an extremely successful technique in reducing the high number of bird deaths.

There was no funding mechanism in place at the time, so the Department had to pay for this work itself. The Department was being funded by sportsmen through the sale of hunting and fishing licenses, matched with the federal wildlife restoration funds that the Nevada Department of Wildlife is eligible to receive. So, in effect, sportsmen were footing the bill for the Department's activities in preventing the death of game birds. Throughout those years, we had a particularly good working relationship develop between the mining industry and the Department. Trust was gained on behalf of the members of the mining industry for the state, and the Department and industry recognized the state's interest in alleviating their problem in lieu of taking a heavy-handed approach and perhaps citing them or, in a worst-case scenario, shutting down mining operations.

Today we have a similar phenomena occurring, and this is generally the same type of model for which A.B. 307 was developed. There has been a significant increase in the number of renewable energy development projects taking place in Nevada. Many of the proposed projects are in locales where species such as sage grouse could be negatively impacted if plans are not properly developed. Assembly Bill 307 proposes a model similar to the cooperation that developed between the state and the mining industry in the example I cited. In that particular case, state and industry representatives went to the Legislature together and sought an impoundment fee, for their cyanide leach ponds, that went to the Department via the mining companies in Nevada, which is contained in NRS Chapter 502. The funding that the Department receives to this day is generated from that impoundment fee and it continues to fund three regional mining biologists; and, when I was employed there, it provided for some of funding for the administration of that particular mining program.

The thinking behind this bill is very similar in that we have a similar need to find a solution that resolves the situation amicably between industrial impacts and environmental protection to vulnerable species. It is in the energy company's interest to know in advance the needs of wildlife and to be able to plan for

potential problems. If the Fish and Wildlife Service has to put vulnerable species like the sage grouse on the endangered species list, we are all in trouble. By employing such cooperative efforts with renewable energy interests in the state, we could use a similar model, to help establish that cooperative working relationship with the funding that comes from the renewable energy industry, and avoid some of the direct impacts that could occur with sensitive species.

Assemblyman Goedhart:

You have mentioned that this is a model and has been done before with the mining industry going back to the 1980s or 1990s. Do you have that same type of buy-in and cooperation with the renewable energy industry in terms of the CSP projects, the wind generation units and the geothermal? Have you already discussed this with these entities, and do you have that similar type of buy-in where you are coming to us and singing, "Kumbaya"?

Kyle Davis:

I certainly will not speak for the industry representatives who are here today. I know that we have worked very closely with the various industry representatives to try to draft a bill that will work for everybody. There is probably still a little more work to do to fine tune this, but that is certainly the goal.

Assemblyman Goedhart:

Mr. Tanner, when you worked out an arrangement with the mining industry, it was related specifically to the impoundments over the cyanide leach pond water, was it not?

Gregg Tanner:

Yes, that is correct. It was specific to the ponds and the permit to construct such ponds that was the vehicle for charging the fee.

Assemblyman Goedhart:

Correct. When Red Mountain Gold wanted to expand its footprint in Big Smoky Valley, did it not pay NDOW some sort of fee? Or is it only if they have an impoundment that they want to expand or construct?

Gregg Tanner:

I have been retired since 2004, so I would feel a little uncomfortable responding to the question about NDOW. However, NDOW representatives are here. They currently administer that program and could answer those questions for you.

Assemblyman Goedhart:

Thank you.

Chair Kirkpatrick:

Are there any other questions? [There were none.] I think that we are shortsighted if we establish this Fund just for renewable energy. Do you think that this is going to address any other future industries, because it may be renewable energy today and tomorrow it may be agriculture. Rather than keep rehashing this, can we address it all?

Kyle Davis:

The bill as it reads right now is designed to address all energy projects, both renewable and nonrenewable. One example I have used is the Ruby Pipeline, which is a natural gas pipeline. Because we are currently seeing a lot of impact from energy projects coming to the attention of the Department of Wildlife, we drafted this bill to specifically address energy projects. I do not disagree that there may be impacts in the future from other industries, but we figured that since this was the immediate need, we would focus on this area.

Chair Kirkpatrick:

To summarize: We will be able to use the data that is collected for future industries, so that we are not just creating a funding mechanism, correct?

Kyle Davis:

Exactly. This process will be designed to become more and more efficient as we gather more data, because each project is going to require a new set of data. Once they gather that data, it will be available for all projects of any type down the road.

Chair Kirkpatrick:

We also have the Nevada Institute for Renewable Energy Commercialization (NIRAC), which is doing some mapping of different corridors as well as different aspects of the energy industry. We will be able to coordinate with all those folks, and that is precisely my concern, that we include everybody. With the exception of energy, everyone is trying to work together. It seems everybody in energy is trying to go back to their little silos. We need to have a consistent message throughout our state, because otherwise we are not going to move forward with this.

Kyle Davis:

Precisely. We agree. Our goal with this bill is to have more and more people working on the same page.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

Jeremy Drew, Director, Coalition for Nevada's Wildlife:

The Coalition for Nevada's Wildlife is comprised of leaders from various sportsmen and wildlife conservation groups that represent a broad cross section of environmental interests statewide. [Read from prepared testimony ([Exhibit O](#)).] We would like to go on record today in support of A.B. 307. We also would like to thank the bill's sponsors for their hard work in putting this together. As a lifelong sportsman, I take pride that we shoulder the bulk of the financial burden when it comes to the management of wildlife in Nevada. Sportsmen's activities make up over 95 percent of the Nevada Department of Wildlife's budget. These dollars are collected directly from license and tag fees and are matched by federal funds derived from taxes on hunting and fishing goods and firearms.

Each year, Nevada sportsmen raise hundreds of thousands of dollars in additional revenue through wildlife nongovernmental organizations (NGOs) and dedicate hundreds of volunteer hours to benefit the wildlife we all revere and enjoy. This easily supported system is known as the North American Wildlife Conservation Model, and it has been the most successful conservation model worldwide for over a hundred years. This is the system that brought the desert bighorn sheep, the Nevada state animal, back from the brink of extinction in the 1950s to where Nevada is now home to more bighorn sheep than any other state in the lower 48. Given our history of can-do attitude and proactive action, I can tell you that we have some challenges facing us that are much bigger than any we have faced before.

An important challenge for us today is the development and transmission of energy across public lands. Both the Bureau of Land Management and the U.S. Forest Service make final decisions on the locations and composition of energy projects on public lands, which comprise over 85 percent of Nevada's land area. These decisions carry the potential for serious consequences to our wildlife. I say "our" wildlife because it has been made very clear that while the federal departments have management authority on public lands, the state maintains management authority for wildlife. Therefore, the state tends to maintain the best information pertinent to wildlife on which to base our decisions for energy projects. As such, it is imperative that the federal agencies coordinate closely with NDOW on both the siting and the required mitigating actions to prevent any unintended negative consequences on wildlife and the environment, while going forward with energy development projects. The need for this action is most important for the survival of the sage grouse and other vulnerable species. The result of listing additional sensitive species on the

endangered species list, and its subsequent impact on Nevada's rural economy and on sportsmen, cannot be understated.

At present, NDOW wildlife and habitat biologists and other key staff are spending much of their time dealing with energy projects through processes established by the federal agencies. While this work is imperative, it takes them away from their everyday responsibilities and severely restricts their ability to develop proactive habitat projects to keep our state's wildlife healthy and thriving. Currently, NDOW staff is participating in energy projects with funding derived from sportsmen's activities, which is intended to drive the feedback loop for wildlife management and habitat improvement.

We are not asking for anything extraordinary from the energy companies with this bill. We are simply asking them to participate in the conservation model that we have been so successful at implementing by helping to fund the much needed involvement of NDOW in the federal process. From our perspective, this approach has been proven to be most effective and has worked very well with the mining industries, as Mr. Tanner has described. This is the best program for our state's wildlife and for the long-term sustainability of the energy industry, and that is why we support A.B. 307.

Chair Kirkpatrick:

Are there any questions from the Committee? If you could submit your testimony to our secretaries, that would be helpful.

Ali Chaney, representing the Board of Trustees, Lahontan Audubon Society:

We would like to express our support of A.B. 307. [Read from prepared testimony ([Exhibit P](#)).] Our organization is composed of approximately 900 member-households, and although we are primarily based in the Reno-Carson City area, we are very involved in activities across the state that are focused on the protection of the habitat of all wildlife through our support of the Nevada Important Bird Areas (NV IBA) Program. The protection of wildlife resources and the habitats where wildlife survives is a public issue. Recognizing the value of Nevada's diverse habitats, wide-open spaces, and abundant wildlife resources, the state has made financial investments over the years and has promoted Nevada as a travel destination for those seeking adventure and outdoor recreational opportunities. Therefore, it is in the state's economic interest to protect and maintain these resources.

As you have heard, sportsmen have traditionally played a critical role in funding the wildlife management activities of the Department of Wildlife. But, the burden should not continue to fall on any one particular group, as wildlife is a public trust. It is important to recognize that wildlife-associated activities can

be considered an economic stimulus in many parts of the state, creating jobs as well as adding to the quality of life of our citizens. Our organization recognizes the important need for developing clean energy resources in the state. We also recognize that development does not have to come at the sacrifice of our wildlife resources. We believe it is in the public's interest to support the protection and maintenance of healthy wildlife populations in Nevada. Sportsmen should not bear the sole cost of wildlife management. Energy companies have a responsibility to recognize and protect the public trust when doing business in Nevada. The Department of Wildlife needs the flexibility and the financial resources to adequately protect and manage all of Nevada's wildlife resources.

Assembly Bill 307 will create an efficient program that puts in place a process to effectively evaluate potential impacts to Nevada's wildlife resources, while providing for a cooperative working relationship between the state and the energy industry at the onset of energy development activities. It will provide the funds used to maximize dollars for the on-the-ground projects that will contribute to the better protection of our state's wildlife resources. We appreciate your support of A.B. 307.

Chair Atkinson:

Does anybody have any questions? If you could submit your testimony for the record, that would be helpful.

Assemblyman Goedhart:

At what point in time is this fee proposed to be assessed or collected from the applicant? Is it at the very beginning of the process or before they have turned a single shovelful of dirt and are approved?

Kyle Davis:

You hit on a point that we are still working on. As you will see in the amendment Assemblyman Bobzien has presented ([Exhibit M](#)), one matter is federal projects talking about when they will file the right-of-way. After further discussions with the industry, there is an amendment from LS Power ([Exhibit N](#)) that talks about the cost recovery mechanism with the federal agency, and we think that will work also. Essentially, our goal is to do it early in the process so that they can work collaboratively with the Department of Wildlife. But we certainly want to be clear about the project being approved, so the industry is not spending money on a project that is never going to happen. We are hoping to find something that will work for everybody in the very near future.

Chair Kirkpatrick:

Does anybody else have any questions? [There were none.] Is there anybody else who would like to testify in support of A.B. 307?

Luke Busby, representing Clean Energy Center, LLC:

The Clean Energy Center is a renewable energy developer in Reno, Nevada. We wanted to express general support for this bill. We think it is a good idea to assist developers early on in the application and permit process. We think this will help developers evade pitfalls later on.

Chair Kirkpatrick:

Does anybody have any questions?

Assemblyman Goedhart:

Could you envision a situation where your customer would be subject to this process and this fee?

Luke Busby:

Yes, my client is involved in developing larger projects with third-party developers. For example, we come up with regulatory permitting and development strategies for large wind projects. My client would be subject to this fee. We do not oppose it because we think it is a good mechanism in the short term for resolving some development problems and particularly in the long term for avoiding adding the designation of an endangered species in Nevada, which could have severe and detrimental effects on my client, who is involved in wind energy projects.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

Alfredo Alonso, representing the Large-Scale Solar Association:

Like many of the comments made with respect to trying to do the siting, et cetera, on the front end, which is extremely important for our members, our concerns relate to the beginning stage of a project. If you are intending to build a project of 500 megawatts, you may end up at 100 megawatts. There are concerns on project size and also when the fee must be paid. We need to flesh that out, and we want to work together with the sponsors in order to do that. The cost is a concern as well. We do not want to get to a point where we are, again, cost-prohibitive in Nevada, as opposed to Arizona, California, and other states. This is something we would like to work out with the proponents of this bill.

Chair Kirkpatrick:

If we did it to the regulation process, we would still have to be clear on what the parameters should be. I hate to throw it on the Office of Energy, but I do not know how you will be able to hash it out in the next 4 days or even in the next 50 days so that everyone is in a win-win situation.

Alfredo Alonso:

I agree. Obviously, there is little time, so we are willing to work with this Subcommittee and the full body on making sure that this works within the deadline and to get this to where we need to be.

Jesse Wadhams, representing Ormat Technologies:

Ormat Technologies is a developer and operator of geothermal power plants. We are certainly supportive of the concepts encapsulated in this bill. We have a couple of the same concerns, such as the fee amount and when it attaches. We are ready to work on this. I did notice that, fortunately, NRS 704.7811 does include geothermal as renewable energy. We find this bill useful in that respect.

Randell S. Hynes, representing Nevada Solar Authority:

We are a developer in Las Vegas, and our sweet spot is solar photovoltaic (PV) projects of 1 to 3 megawatts, so I appreciate Mr. Goedhart's questions, as they were the ones I would have asked. I think our biggest concern would be when the fee has to be paid. I appreciate the intent of creating the Office of Energy as a hub for these types of projects, and I think we need to get a grip on all the different projects going on today. Maybe we can take it another step and give the Office of Energy the opportunity to become a clearinghouse for developers who want to communicate with all the State of Nevada's environmental groups. Instead of addressing this one issue, maybe we can solve some of these problems, so that instead of people having to deal with 32 different environmental organizations individually, there is one central agency which can address all of these issues at one time.

Chair Kirkpatrick:

Does anybody have any questions? I think we are on energy overload. We have used up our kilowatts for our brains. Is there anybody else who would like to testify in support of A.B. 307? [There was no one.] Is there anybody who is in opposition to A.B. 307 wishing to testify? [There was no one.] Is there anyone neutral wishing to testify?

Kathleen Conaboy, representing LS Power:

LS Power is a developer of power generation and transmission in a number of states including Nevada, where we are working in partnership with NV Energy in

eastern Nevada to build the One Nevada Transmission Line (ON Line), the north-south line. When LS Power met with the sponsor of this bill, Mr. Bobzien, we came for the same reasons that were discussed earlier. We are obviously very interested in keeping the sage grouse off the endangered species list, but we are also concerned with the fees and the timeline laid out in the bill. So, in having further discussions with Mr. Bobzien, we put together some suggested language to address some of the questions that have already come up. I apologize for the lateness of getting this to your attention, but we just met with Mr. Bobzien late this afternoon.

The changes deal with section 7 of the bill ([Exhibit N](#)). You can see in the amendment, on line 14, that we have changed "estimated energy output" to "estimated energy capacity," simply because capacity would cover both transmission and generation, not just the latter. On line 16, in answer to some questions about when the fees should take effect, we suggest it should be when the developer's first application is filed with any of the following three entities: the federal government, the Public Utilities Commission of Nevada, or any other state or local government agency. We want to clarify further that this would happen just once. If an amended application was made after the fact, the fee would not be reassessed to the developer. So, we are hoping that this is a one-time fee.

You will notice that we inserted an "or" on line 20 to make sure that people understood that it is one of those three governmental entities. On line 30, we suggest that, from our perspective as transmission developers, either the capacity of the project or the "linear project mileage," as opposed to "acreage," should determine the fee. We also suggest that other industries, probably through the regulatory processes we have been discussing, would have to come up with other metrics indicative of the potential disturbance caused by their projects. On line 31, we are hoping that we can insert the word "new" in front of "roads," so that we do not include existing roads as disturbed land. Finally, on line 33, we suggest that for those projects requiring federal review, the fee should be collected no earlier than the date when the project sponsor remits the funds to the lead federal agency. For instance, you will see in my third note on the bottom, that when the BLM sets up a "Cost Reimbursement Account" to deal with a project, that is when the fees would kick in for Nevada. For projects on private land, the Office of Energy would have to determine the fees at an appropriate time.

Chair Kirkpatrick:

I do not have any questions. I think we ought to read both amendments and figure out where they come in, but I will follow up with you tomorrow.

Judy Stokey, representing NV Energy:

We signed in as neutral on this bill. We are neutral on parts of it. We think the concept of mitigating impacts to wildlife and their habitats is a great idea. We could support that part of the bill. It also fits in well with the sage grouse protection legislation that was recently passed. The bottom line is that if our state focuses proactively on impacts to wildlife through existing habitat restoration projects, this will allow the state to attract new renewable energy projects and other job-creating industries. But, setting up new fees right now could be a barrier to entry. Even though we think this is a great idea, we also have concerns about the fee.

Chair Kirkpatrick:

Does anybody have any questions?

Assemblywoman Bustamante Adams:

The LS Power amendment suggests a fee of not more than \$500. Is more than \$500 cost-prohibitive for energy developers, and if it is, is there an amount that you can suggest instead?

Judy Stokey:

The numbers I have from Mr. Bobzien were \$35,000 and \$100,000. I have not seen the amendment from LS Power, but those were the numbers he had given me, and he did state that the transmission line projects would be towards the high side.

Tom Wilczek, Energy Program Manager, Office of Energy, Office of the Governor:

Just for the record, our comments are predicated on the version of the amendments that were sent through Director Crowley, so we are not privy to the same amendments that were just discussed. We are weighing in as neutral, and I would like to state for the record that if this bill passes in its current or modified form, we would like this Subcommittee to be assured that we will work in the full spirit of cooperation with our sister entities and state bodies to ensure that the Acts are fully enforced and rendered effective statewide. We are very mindful of Assemblyman Bobzien making the Office of Energy responsible for this. We have a concern about these responsibilities, including the compilation and reporting of energy data. We are also concerned that the \$500 fee that is assessed primarily by the Office on top of the sliding scale may be insufficient to fund whatever the Franchise Tax Board would be required by our Office to process, which is one of the requirements this bill puts forward. At this particular point, we do not have that data. We would be more than willing to work with the other bodies and with the Committee to come up with the solution to those concerns.

Chair Kirkpatrick:

I have a lot of unanswered questions and I see Mr. Bobzien had to go back to Committee. What is happening to the projects that we have currently in the pipeline? Do we have to go back and make them pay retroactively? If we do not take care of endangered species, we could end up stopping all development so I understand that concern. For many years, we have seen that happen because of concerns for the preservation of the desert tortoise and its habitat. I see some initial start-up costs on your end at least. It seems to me that if it is not \$500, and if we have only one project a year anyway, that does not do anything for us; we have already seen that with the abatement. We were hoping we would get those dollars in place, so I would bet that you are going to have to put some amount on there just in case we see only one application per year. At the same time, I do not know how we can fix it at this point.

Tom Wilczek:

That is entirely true. We are mindful—and that is why we are weighing in with neutrality—that there will be some set-up costs in terms of getting everything ready and enacting the regulations. We do not know whether or not we will see one application or a thousand. We certainly hope it is a thousand. But we are just speculating at this point.

Chair Kirkpatrick:

Are there any other questions?

Ken Mayer, Director, Department of Wildlife:

We are neutral on the bill. We also feel that the fees are problematic. Other than that, I want to give you a little overview of how we address this issue currently as well as in the recent past.

First of all, we are not a regulatory agency; rather, we provide information. We have about 500 projects statewide that staff reviews on an annual basis. Last year, we had 103 energy projects to review, and of those 75 were renewable energy projects. About ten became long-term projects that we get fully involved in for about three to four years. To respond to the question about having only one project in the state, either we have not provided enough adequate information from the state's perspective or it is nonexistent. We are always struggling with providing staff time to "triage" those projects that are coming down the pipeline, to ensure that we are commenting on the most important ones. We are at capacity at this point. We have about six or seven people working part-time on these projects. I have my Deputy Director here, Patrick Cates, who can talk about dollars and cents to let you know where we are in that respect.

Assemblyman Goedhart:

In reference to the previously mentioned cooperative arrangement between NDOW and the mining industry regarding fees, is that related narrowly to the impoundments, or is it similar to when Barrick Gold Corporation or Newmont Mining Corporation want to expand mining operations and the fee is indexed to the size of the footprint of the new, extended mining operations?

Ken Mayer:

Actually, the fee is collected two ways. There is a fee schedule for the amount of tonnage that the company actually mines, and it pays a fee based on that. Then there is the water impoundment issue. One of the things we were trying to fix is the amount of time spent on this. Last year we collected \$217,000 in assessments on mining fees. That supports three field positions that work on mining issues. We also spend a lot of time on the permit end of things. We have been in consultation with the Nevada Mining Association about these issues. We are spending a lot of time doing biological analysis, and some of these projects do not go anywhere because the companies subsequently realize that the biological issues are just too great to overcome.

Assemblyman Goedhart:

To sum up, the fee relies upon two things, the amount of ore that has been mined or moved, and the surface rate of the impoundment, not necessarily the acreage or square miles of the disturbed land, is that correct?

Ken Mayer:

Correct. At the time, the agency working with the mining industry felt that this was the best way to assess the costs.

Assemblyman Goedhart:

And for all the recent boom in mining we have had here, the total amount of fees collected by your office for all the mining operations was \$217,000 last year?

Ken Mayer:

Correct, and that amount has declined over the last couple of years. If you take a look at the industry, it has consolidated, so we actually have fewer overall entities paying the fee. Thus, we are seeing a decline in the mining fees that are collected each year.

Chair Kirkpatrick:

Are there any additional questions? [There were none.] Is there anyone else who would like to testify as neutral to A.B. 307? [There was no one.] Is there anyone who is opposed to A.B. 307? [There was no one.] Mr. Davis, do you have any final comments? [He had none.] We will close the hearing on Assembly Bill 307 and open the hearing on Assembly Bill 359.

[Assembly Bill 359](#): Revises provisions governing energy. (BDR 58-1064)

Assemblyman Pete Goicoechea, Assembly District No. 35:

I clearly intended for this bill to bring the hydro resources back a little closer to what was determined to be net metering. We have gotten it to where it would be net metered. One of our energy system demonstration projects was scheduled to expire in June 2011, and I feel that we are just starting with these hydro resources, especially in some of the more rural areas. Another significant change is that the capacity goal for waterpower energy systems has been increased from 500 kilowatts to 1 megawatt. We do have some issues with the bill, but I promise you, Madam Chair, give me 24 hours and we can work them out. They are very simple. I have been in contact with NV Energy on this bill, but you never know if these bills are going to move ahead or not, so we did not want to commit a lot of time and resources to them.

In section 1, subsection 2, the word "municipal" is inserted to work with agriculture. I know NV Energy has an amendment to that. The other improvement is the 1 megawatt-cap on capacity, which will be increasing to 10 megawatts in 2014 and to 25 megawatts by 2020. NV Energy would like to see a 5-megawatt cap, I believe. It makes sense with this particular bill, A.B. 359, that we also look at putting waste heat energy into the recovery system to promote a qualified recovery energy process. My real issue with the bill is that the hydro resources are in one location, and the location of the power usage sites may be in another. The bill talks about property and contiguous property that is owned by the customer-generator.

As I stated, if you give us 24 hours, I think we can put this together. My real issue is the contiguous property. I will stand for any policy questions from this Subcommittee. If you need more expertise on a particular issue, I will defer to the gentlemen here with me.

Chair Kirkpatrick:

Are there any questions? [There were none.] I want to know about the municipal uses, because that is a pretty broad category. Do you know, Mr. Geddes or Mr. Goicoechea, what the amendment to that is?

Assemblyman Goicoechea:

I do not have a problem if "municipal" is deleted, but I do not know exactly why it was in the bill, so I will defer to the others.

Jason Geddes, Environmental Services Administrator, City of Reno:

We were looking for municipal uses or expanding for public uses for our wastewater treatment plants in the Cities of Reno and Sparks and so are our counterparts in the City of Las Vegas. We were looking to use the treated effluent water for energy recovery to offset the high cost of energy at our wastewater treatment plants. We want to expand that definition of the program to include those purposes. We do not want to strike out "municipal", but whatever public use definition would work and is in the other solar programs would be great.

In the City of Reno we have participated in the solar generation program. We have put in 260 kilowatts and are in the process of putting in another megawatt of solar. We have also participated in the wind generation program to put in nine wind turbines, and we would like to move into the hydro business and put in a couple of hydro turbines. The other part I would like to mention is the issue of percent usage, and I believe you heard a little bit of testimony on this last Wednesday for Assembly Bill 416. As we are developing this project at our wastewater treatment plant, we are trying to put in a megawatt of solar to offset about 85 percent of our energy use at that facility. But because of the way we have managed our energy to keep our costs down, and not to put too much work on peak when we get our highest load, we managed ourselves below the demand class that would allow us to build to a megawatt. So, it limited the size of our system to 750 kilowatts.

Further, we get into a definition of time of use billing with summer and winter, on-peak and off-peak, where whatever we overproduce in the summer does not carry over into the other rate classes. Even when we produce a high level in the summer, it does not carry over into the nighttime, and it does not carry over into the winter, when we have lower production. These factors further limit how low we could build the system. We did work with NV Energy on that, and they agreed to make some compromises that we could put into our final language in the legislation, but it made it difficult in a third-party financing situation to go forward with uncertainties. So there are changes there that I think you have heard before. We realized there are issues with this. We did share it with NV Energy as far as recovery rates and the demand, and to make sure that demand is there, but we need some way to be able to build to the intent of the full use of the plant as the bill's other sections talk about, the other sections of the *Nevada Revised Statutes* (NRS) that have limited us in the way they have been applied.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.] In section 6, when it uses "renewable energy or waste heat from a qualified energy recovery process," would that include recycled materials? What specifically would that mean?

Jason Geddes:

I will defer to Mr. Jesse.

Rett Jesse, CEO and President, Nevada Controls, LLC, Carson City, Nevada:

We produce control systems for small energy projects, such as hydro and geothermal. With regard to hydro, we are going to accomplish the goal of 500 kilowatts that was set in the 2009 Legislature; we will do that in June of this year. By expanding the program, we hope to have 5 megawatts by 2014, which is the right thing to do, and we support that.

With regard to the qualified energy recovery processes, we are looking at mainly waste heat. Those processes that use natural gas for heating and process heating put a lot of heat out the stack that is unutilized right now. It could be utilized but one of the drawbacks is the cost. They are not looking for a rebate on this at all; what they want to do is net metering. We are adding to the net metering statute to allow for waste heat recovery to become economically viable. For those processes, where we generate a lot of waste heat, we want to be able to capture it and convert it into electricity, thereby offsetting the customer's or the manufacturer's electric bills. We are talking about a manufacturer of cement, drywall, or soil amendments and such things as magnesium oxide that is used to sequester CO₂—which are what the qualified energy recovery processes are for. It is to take advantage of those processes.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.] For me, this definition is a lot broader than what you just said. I want to either narrow it down or think of a different definition, because when you add "from a qualified energy recovery process," there is more than one process out there. I want to be sure what that means, because in Colorado manure is used in a waste heat recovery process. They use recycled materials through a waste heat recovery process.

Rett Jesse:

In NRS 704.7809, there is a definition of the "qualified energy recovery process," and it was our intention to use that definition. In other words, we do not wish to vary from it, but to utilize it. It is not in the net metering statutes, so they cannot take advantage of net metering. It is just allowing them to do so.

Chair Kirkpatrick:

Does anybody else have any questions? [There were none.] Is there anybody else that you would like to come up at this time, Mr. Goicoechea?

Assemblyman Goicoechea:

No, Madam Chair. I think there are several other people wanting to testify for, against, or neutral, though.

Chair Kirkpatrick:

Anybody who is in support of A.B. 359, please come forward now.

Rett Jesse:

Just to let you know with regard to hydro, it is not one of those renewables that you can put just anywhere. They have very fixed locations. You have to put it at the end of a pressurized pipe in order to generate power. If you try to move it from there, you have head loss and you lose the power generated in the pipes, so it has to have a fixed location. In fact, it is the only renewable where you have to have a water right in order to use it. You do not need to have that for solar or wind, but you need to have it for water, because it is reliant on a very specific location, and that is why a little broader definition is being requested in this instance.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.]

Kyle Davis, representing the Nevada Conservation League:

We are in support of the bill.

Chair Kirkpatrick:

Is there anybody who is in opposition to this bill?

Judy Stokey, representing NV Energy:

We are here in opposition to the way A.B. 359 is written. We have started a dialogue with the sponsor to work on this, so I think we will be able to get to the point where we can support the bill. There is a similar bill in the Senate that we have been working on with Senator Settelmeyer. We wanted to say that we would like to keep it as a hydro bill. The hydro program has been very successful and they are the ones who have an issue with the contiguous property clause, not with the other applications. If you want, we go could through an amendment that you do not have yet, that I still would like to work on with the sponsor if that is okay. We could come back or we could just list those items we have a problem with.

Chair Kirkpatrick:

I think in the interest of time, if you could work it out together and Mr. Goicoechea could give us a copy of the amendment tomorrow, we can distribute it, because I would bet that we have to make some decisions by Wednesday or Friday. Is there anybody else who is in opposition to this bill? [There was no one.] Is there anybody who is neutral on this bill?

Paul McKenzie, representing the Building and Construction Trades Council of Northern Nevada:

We are in support of the basic language in this legislation. The one issue we have is with Nevada municipalities in regard to eligible participants, and we have not added provisions as we have in other parts of NRS Chapter 701B that apply to the public work portion of it. There are several different versions of NRS 701B.265 and 701B.625 floating around in different legislation out there, and which one of those verbiages survive, I would want to add to this legislation if we are going to include municipalities in it.

Luke Busby, representing Clean Energy Center, LLC:

I want to begin with a quote from William Arthur Ward: "The pessimist complains about the wind, the optimist expects it to change, and the realist adjusts the sails." On that point, I would beg to differ with the company's description of waterpower as the only renewable technology that is location specific. That is not true. The wind resource that you use is highly dependent on where you are able to put the turbine. Therefore, we would like the Committee to consider amending sections 6, subsection 1(b) of the bill to add wind in the definition, so that wind turbines can be placed on contiguous land owned by the same person, and can be connected to the utility system in the least expensive manner possible. The same rationale applies to both technologies. Location is critical for obtaining the best resource. Unlike solar and other technologies that are eligible for net metering, this will help renewable developers place turbines in the best locations possible rather than in less advantageous locations based on an artificial legal constraint. It will help large institutions like businesses, university campuses, agricultural businesses, and government institutions take advantage of wind resource opportunities where they could not otherwise.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.] Is there anybody else who would like to testify on Assembly Bill 359? [There was no one.] Mr. Goicoechea, do you wish to make a final statement?

Assemblyman Goicoechea:

If you give us 24 hours, we will get the revised version to you by tomorrow night; how is that?

Chair Kirkpatrick:

Perfect. With that we will close the hearing on Assembly Bill 359 and we will go to public comment. Is there any public comment? [There was none.]

We will adjourn the meeting at this time [7:45 p.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Recording Secretary

Diane O'Flynn
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Subcommittee on Commerce and Labor

Date: April 11, 2011

Time of Meeting: 5:08 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 457	C	Jon Sasser	Prepared Testimony
A.B. 457	D	Jon Sasser	NV Energy Bill
A.B. 457	E	Jon Sasser	UEC Eligibility by Zip Code/ FY 2010
A.B. 457	F	Jon Sasser/Legal	EAP Chart
A.B. 457	G	Jon Sasser	LIHEAP Memo
A.B. 457	H	Albert Weiss	Weatherization Program Savings
A.B. 457	I	Albert Weiss	Letters from EAP beneficiaries
A.B. 457	J	Assemblywoman Teresa Benitez-Thompson	Testimony from NASW Executive Director and social worker
A.B. 457	K	Jan Gilbert	Testimony of Ernest K. Nielsen
A.B. 202	L	Assemblyman Randy Kirner	Conceptual Amendment
A.B. 307	M	Assemblyman David P. Bobzien	Amendment 5981
A.B. 307	N	Assemblyman David P. Bobzien	LS Power Amendment
A.B. 307	O	Jeremy Drew	Prepared Testimony
A.B. 307	P	Ali Chaney	Prepared Testimony